

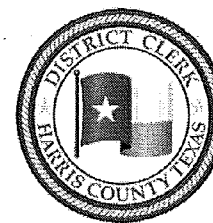
Harris County Docket Sheet

2016-26094

COURT: 190th

FILED DATE: 4/22/2016

CASE TYPE: Insurance



LISTI, SAMUEL

Attorney: WORRALL, MATTHEW JAMES

VS.

ALLSTATE TEXAS LLOYDS

Attorney: REYNA, JOHN BYRON

Docket Sheet Entries

Date

Comment



HCDistrictclerk.com

LISTI, SAMUEL vs. ALLSTATE TEXAS LLOYDS

5/23/2016

Cause: 201626094

CDI: 7

Court: 190

APPEALS

No Appeals found.

COST STATMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY

CASE DETAILS

File Date	4/22/2016
Case (Cause) Location	Civil Intake 1st Floor
Case (Cause) Status	Active - Civil
Case (Cause) Type	Insurance
Next/Last Setting Date	N/A
Jury Fee Paid Date	4/25/2016

COURT DETAILS

Court	190 th
Address	201 CAROLINE (Floor: 12) HOUSTON, TX 77002 Phone: 7133686310
JudgeName	PATRICIA J. KERRIGAN
Court Type	Civil

ACTIVE PARTIES

Name	Type	Post	Attorney
LISTI, SAMUEL	PLAINTIFF - CIVIL	Jdgm	WORRALL, MATTHEW JAMES
C/O 100 WAUGH DRIVE, HOUSTON, TX 77007			
ALLSTATE TEXAS LLOYDS	DEFENDANT - CIVIL		REYNA, JOHN BYRON
C/O CT CORPORATION SYSTEM, DALLAS, TX 75201			
COLBERT, ALLEN MICHAEL	DEFENDANT - CIVIL		
5415 MARGARET LANE,, BEAUMONT, TX 77708			
ALLSTATE TEXAS LLOYDS MAY BE SERVED BY REGISTERED AGENT SERVING ITS REGISTERED AGENT			

INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs Volume /Page	Filing Attorney	Person Filing
5/20/2016	ANSWER ORIGINAL PETITION		0		REYNA, JOHN BYRON	ALLSTATE TEXAS LLOYDS
4/22/2016	JURY FEE PAID (TRCP 216)		0			
4/22/2016	ORIGINAL PETITION		0		WORRALL, MATTHEW JAMES	LISTI, SAMUEL

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION (CERTIFIED)	SERVICE ISSUED/IN POSSESSION OF SERVING AGENCY	ORIGINAL PETITION	COLBERT, ALLEN MICHAEL	4/22/2016	4/26/2016				73240035	CVC/CTM SVCE BY CERTIFIED MAIL
CITATION (CERTIFIED)	SERVICE RETURN/EXECUTED	ORIGINAL PETITION	ALLSTATE TEXAS LLOYDS MAY BE SERVED BY SERVING ITS REGISTERED AGENT	4/22/2016	4/26/2016	5/2/2016	5/6/2016		73240037	CVC/CTM SVCE BY CERTIFIED MAIL

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
70339388	Defendant's Original Answer		05/20/2016	2
70165777	Domestic Return Receipt		05/06/2016	1
70015485	Certified Mail Receipts		04/27/2016	1
69983425	Certified Mail Tracking Number 7015 0640 0004 5594 0312		04/26/2016	1
69983426	Certified Mail Tracking Number 7015 0640 0004 5594 0329		04/26/2016	1
69934004	PLAINTIFF'S ORIGINAL PETITION		04/22/2016	35
-> 69934006	Civil Case Information Sheet		04/22/2016	1
-> 69934007	Civil Process Request Form		04/22/2016	1

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CIVIL CASE INFORMATION SHEET

Chris Daniel - District Clerk
Harris County

Envelope No: 10268061

By: LUGO, BONNIE

Filed: 4/22/2016 4:36:22 PM

CAUSE NUMBER (FOR CLERK USE ONLY)

2016-26094 / Court: 190

COURT (FOR CLERK USE ONLY)

STYLED Samuel Listi v. Allstate Texas Lloyds and Allen Michael Colbert

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name: _____ Matthew J. Worrall Address: _____ 100 Waugh Drive, Suite 350 City/State/Zip: _____ Houston, Texas 77598 Signature: _____ <i>Matthew J. Worrall</i>		Email: _____ mworrall@potts-law.com Telephone: _____ 713-963-8881 Fax: _____ 713-574-2938 State Bar No: _____ 24070883		Plaintiff(s)/Petitioner(s): _____ Samuel Listi Defendant(s)/Respondent(s): _____ Allstate Texas Lloyds and Allen Michael Colbert [Attach additional page as necessary to list all parties]	
				<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____	
				Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)	
Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input checked="" type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment	Other Civil				
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax	Probate & Mental Health				
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____	Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

4/22/2016 4:36:22 PM
Chris Daniel - District Clerk Harris County
Envelope No. 10268061
By: Bonnie Lugo
Filed: 4/22/2016 4:36:22 PM

2016-26094 / Court: 190

Cause No. _____

SAMUEL LISTI

Plaintiff,

v.

ALLSTATE TEXAS LLOYDS AND ALLEN
MICHAEL COLBERT

Defendant

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Samuel Listi, Plaintiff (hereinafter referred to as "Plaintiff"), and file this Original Petition against Defendants, Allstate Texas Lloyds ("Allstate") and Allen Michael Colbert ("Colbert") (to whom will be collectively referred to as "Defendants"), and respectfully would show this court as follows:

PARTIES

1. Plaintiff, Samuel Listi, is an individual residing in and/or owning property in Harris County, Texas.
2. Defendant, Allstate, is an insurance company that engaged in the business of insurance in the State of Texas at all times material to this action. This defendant may be served by serving its Registered Agent for service of process: C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136, via certified mail, return receipt requested.

3. Defendant, Allen Michael Colbert, is an individual residing in and domiciled in the State of Texas. This defendant may be served via certified mail, return receipt requested at 5415 Margaret Lane, Beaumont, Texas 77708.

DISCOVERY LEVEL

4. Plaintiff intends for discovery to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

JURISDICTION

5. The Court has jurisdiction over this controversy because the damages are within the jurisdictional limits of this court. Plaintiff is seeking monetary relief over \$200,000 but not more than \$1,000,000. Plaintiff reserves the right to amend this petition during and/or after the discovery process.

6. The Court has jurisdiction over Defendant, Allstate, because this defendant engaged in the business of insurance in the State of Texas, and Plaintiff's causes of action arise out of defendant's business activities in the State of Texas.

7. The Court has jurisdiction over Defendant, Colbert, because this defendant engages in the business of adjusting insurance claims in the State of Texas, and Plaintiff's causes of action arise out of defendant's business activities in the State of Texas.

VENUE

8. Venue is proper in Harris County, Texas, because the insured property is situated in Harris County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.032.

FACTS

9. Plaintiff is the owner of a property insurance policy ("the Policy") issued by Allstate.

10. Plaintiff owns the insured property located at 7915 Windswept, in Harris County (hereinafter referred to as “the Property”). Allstate sold the Policy insuring the Property to Plaintiff.

11. On or about January 8, 2016, a hail storm and/or windstorm struck Harris County, Texas, causing severe damage to homes and businesses throughout the region (“the Storm”) including the Property. The Storm damaged the Property including extensive damage to Plaintiff’s roof.

12. Plaintiff subsequently submitted a claim to Allstate for the damage the Property sustained as a result of the Storm. Plaintiff requested that Allstate cover the cost of repairs, including but not limited to, replacement of the roof pursuant to the property.

13. Defendant Allstate assigned Colbert as the individual adjuster (“the adjuster”) on the claim. The adjuster was improperly trained and failed to perform a thorough investigation of the claim spending an inadequate amount of time inspecting Plaintiff’s property. The adjuster conducted a substandard inspection of Plaintiff’s Property evidenced by the adjuster’s report, which failed to include all of Plaintiff’s storm damages noted upon inspection. The damages the adjuster included in the report were grossly undervalued and did not allow for adequate funds to cover the cost of repairs to all the damages sustained.

14. Allstate and its personnel failed to thoroughly review and properly supervise the work of their assigned adjusters which ultimately led to the approving an improper adjustment and an inadequately unfair settlement of Plaintiff’s claim. As a result of Defendants’ wrongful acts and omissions set forth above and further described herein, Plaintiff was wrongfully denied on the claim and has suffered damages.

15. Together, Defendants set about to deny and/or underpay on properly covered damages.

Defendants failed to provide full coverage for the damages sustained by Plaintiff and under-scoped Plaintiff's damages, thereby denying adequate and sufficient payment on Plaintiff's claim. As a result of Defendants' unreasonable investigation, Plaintiff's claim was improperly adjusted, and Plaintiff was wrongfully denied on the claim and has suffered damages. The mishandling of Plaintiff's claim has also caused a delay in Plaintiff's ability to fully repair the Property, which has resulted in additional damages. To this date, Plaintiff has yet to receive the full payment that he is entitled to under the Policy.

16. As detailed in the paragraphs below, Allstate wrongfully denied Plaintiff's claim for repairs of the Property, even though the Policy provided coverage for losses such as those suffered by Plaintiff.

17. To date, Allstate continues to delay in the payment for the damages to the Property. As such, Plaintiff has not been paid in full for the damages to the Property.

18. Defendant Allstate failed to perform its contractual duties to adequately compensate Plaintiff under the terms of the Policy. Specifically, it refused to pay the full proceeds of the Policy, although due demand was made for proceeds to be paid in an amount sufficient to cover the damaged property, and all conditions precedent to recovery upon the Policy had been carried out and accomplished by Plaintiff. Allstate's conduct constitutes a breach of the insurance contract between Allstate and Plaintiff.

19. Defendants misrepresented to Plaintiff that the damage to the Property was not covered under the Policy, even though the damage was caused by a covered occurrence. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a)(1).

20. Defendants failed to make an attempt to settle Plaintiff's claim in a fair manner, although they were aware of their liability to Plaintiff under the Policy. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.0060(a)(2)(A).

21. Defendants failed to explain to Plaintiff the reasons for their offer of an inadequate settlement. Specifically, Defendants failed to offer Plaintiff adequate compensation, without any explanation why full payment was not being made. Furthermore, Defendants did not communicate that any future settlements or payments would be forthcoming to pay for the entire losses covered under the Policy, nor did they provide any explanation for the failure to adequately settle Plaintiff's claim. Defendants' conduct is a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a)(3).

22. Defendants failed to affirm or deny coverage of Plaintiff's claim within a reasonable time. Specifically, Plaintiff did not receive timely indication of acceptance or rejection, regarding the full and entire claim, in writing from Defendants. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a)(4).

23. Defendants refused to fully compensate Plaintiff, under the terms of the Policy, even though Defendants failed to conduct a reasonable investigation. Specifically, Defendants performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair, and inequitable evaluation of Plaintiff's claim on the Property. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a)(7).

24. Defendant Allstate failed to meet its obligations under the Texas Insurance Code regarding

timely acknowledging Plaintiff's claim, beginning an investigation of Plaintiff's claim, and requesting all information reasonably necessary to investigate Plaintiff's claim, within the statutorily mandated time of receiving notice of Plaintiff's claim. Allstate's conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE § 542.055.

25. Defendant Allstate failed to accept or deny Plaintiff's full and entire claim within the statutorily mandated time of receiving all necessary information. Allstate's conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE § 542.056.

26. Defendant Allstate failed to meet its obligations under the Texas Insurance Code regarding payment of claim without delay. Specifically, it has delayed full payment of Plaintiff's claim longer than allowed and, to date, Plaintiff has not received full payment for the claim. Allstate's conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE § 542.058.

27. From and after the time Plaintiff's claim was presented to Defendant Allstate, the liability of Allstate to pay the full claim in accordance with the terms of the Policy was reasonably clear. However, Allstate has refused to pay Plaintiff in full, despite there being no basis whatsoever on which a reasonable insurance company would have relied to deny the full payment. Allstate's conduct constitutes a breach of the common law duty of good faith and fair dealing.

28. Defendants knowingly or recklessly made false representations, as described above, as to material facts and/or knowingly concealed all or part of material information from Plaintiff.

29. As a result of Defendants' wrongful acts and omissions, Plaintiff was forced to retain the professional services of the attorney and law firm who are representing them with respect to these causes of action.

30. Plaintiff's experience is not an isolated case. The acts and omissions Allstate committed in this case, or similar acts and omissions, occur with such frequency that they constitute a general business practice of Allstate with regard to handling these types of claims. Allstate's entire process is unfairly designed to reach favorable outcomes for the company at the expense of the policyholders.

CAUSES OF ACTION

31. Each of the foregoing paragraphs is incorporated by reference in the following:

I. Causes of Action Against Colbert

32. Allstate assigned Colbert to adjust this claim. Colbert was improperly trained and performed an outcome oriented and unreasonable investigation of Plaintiff's damages. Colbert did not properly assess all damages caused by the Storm and omitted covered damages from the report including the full extent of damage to the roof. Colbert refused to fully compensate Plaintiff for the full amount Plaintiff is entitled under the Policy. The outcome oriented investigation of Plaintiff's claim resulted in a biased evaluation of Plaintiff's damages to the Property and the estimated damages were severely underestimated.

A. Noncompliance with Texas Insurance Code: Unfair Settlement Practices

33. Defendant Colbert's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a). All violations under this article are made actionable by TEX. INS. CODE § 541.151.

34. Defendant Colbert's is individually liable for his unfair and deceptive acts, irrespective of the fact Colbert was acting on behalf of Allstate, because Colbert is a "person" as defined by TEX. INS. CODE § 541.002(2). The term "person" is defined as "any individual, corporation, association,

partnership, reciprocal or interinsurance exchange, Lloyds plan, fraternal benefit society, or other legal entity engaged in the business of insurance, including an agent, broker, adjuster or life and health insurance counselor.” TEX. INS. CODE § 541.002(2) (emphasis added). (See also *Liberty Mutual Insurance Co. v. Garrison Contractors, Inc.*, 966 S.W. 2d 482, 484 (Tex. 1998) (holding an insurance company employee to be a “person” for the purpose of bringing a cause of action against him or her under the Texas Insurance Code and subjecting him or her to individual liability)).

35. Defendants’ misrepresentations by means of deceptive conduct include, but are not limited to: (1) failing to conduct a reasonable inspection and investigation of Plaintiff’s damages; (2) stating that Plaintiff’s damages were less severe than they in fact were; (3) using their own statements about the non-severity of the damages as a basis for denying properly covered damages and/or underpaying damages; and (4) failing to provide an adequate explanation for the inadequate compensation Plaintiff received. Defendant Colbert’s unfair settlement practices, as described above, of misrepresenting to Plaintiff material facts relating to the coverage at issue, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060 (a)(1).

36. Defendant Colbert’s unfair settlement practices, as described above, of failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the claim, even though liability under the Policy is reasonably clear, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(2)(A).

37. Defendant Colbert failed to explain to Plaintiff the reasons for the offer or offers of an

inadequate settlement. Specifically, Defendant Colbert failed to offer Plaintiff adequate compensation without any explanation as to why full payment was not being made. Furthermore, Defendant Colbert did not communicate that any future settlements or payments would be forthcoming to pay for the entire losses covered under the Policy, nor was there any explanation for the failure as described above, of failing to promptly provide Plaintiff with a reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for the offer of a compromise settlement of Plaintiff's claim, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(3).

38. Defendant Colbert's unfair settlement practices, as described above, of failing within a reasonable time to affirm or deny coverage of the claim to Plaintiff, or to submit a reservation of rights to Plaintiff, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(4).

39. Defendant Colbert did not properly inspect the Property and failed to account for and/or undervalued Plaintiff's roof damage, although reported by Plaintiff to Allstate. Defendant Colbert's unfair settlement practices, as described above, of refusing to pay Plaintiff's claim without conducting a reasonable investigation, constitutes an unfair method of competition, and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(7).

II. Causes of Action Against Allstate

40. Allstate intentionally breached its contract with Plaintiff, intentionally violated the Texas Insurance Code and intentionally breached the common law duty of good faith and fair dealing.

A. Breach of Contract

41. Allstate breached the contract of insurance it had with Plaintiff. Allstate breached the contract by its failure/and or refusal to adequately pay the claim as it is obligated to do under the terms of the Policy in question and under the laws in the State of Texas.

B. Noncompliance with Texas Insurance Code: Unfair Settlement Practices

42. Defendant Allstate's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE § 541.060(a). All violations under this article were made actionable by TEX. INS. CODE § 541.151.

43. Defendant Allstate's unfair settlement practice, as described above, of misrepresenting to Plaintiff material facts relating to the coverage at issue, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 5410.060(a)(1).

44. Defendant Allstate's unfair settlement practice, as described above, of failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the claim, even though Allstate's liability under the Policy was reasonably clear, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(2)(A).

45. Defendant Allstate's unfair settlement practice, as described above, of failing to promptly provide Plaintiff with a reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for its offer of a compromise settlement of the claim, constitutes an unfair method

of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(3).

46. Defendant Allstate's unfair settlement practices, as described above, of failing within a reasonable time to affirm or deny coverage of the claim to Plaintiff, or to submit a reservation of rights to Plaintiff, constitutes an unfair method of compensation and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(4).

47. Defendant Allstate's unfair settlement practice, as described above, of refusing to pay Plaintiff's claim without conducting a reasonable investigation, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE § 541.060(a)(7).

C. Noncompliance with Texas Insurance Code: Prompt Payment of Claims Statute

48. Plaintiff is entitled to 18% interest and attorney fees under TEX. INS. CODE §542.060 for violating the Texas Insurance Code, Prompt Payment of claims TEX. INS. CODE §542.051 *et. seq.*

49. Allstate failed to acknowledge receipt of Plaintiff's claim, commence investigation of the claim, and request from Plaintiff all items, statements, and forms that it reasonably believed would be required within the applicable time constraints under TEX. INS. CODE §542.055.

50. Allstate failed to notify Plaintiff in writing of its acceptance or rejection of the claim within applicable time constraints under TEX. INS. CODE §542.056.

51. Allstate delayed the payment of Plaintiff's claim following its receipt of all items, statements, and forms reasonably requested and required, longer than the amount of time provided for under TEX. INS. CODE §542.058.

D. Breach of the Duty of Good Faith and Fair Dealing

52. Allstate breached the duty of good faith and fair dealing by failing to adequately and reasonably investigate and evaluate Plaintiff's claim while it knew or should have known, by the exercise of reasonable diligence, that its liability was reasonably clear.

E. Knowledge

53. Each of the acts described above, together and singularly, was done "knowingly" as that term is used in the Texas Insurance Code.

DAMAGES

54. Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the producing causes of the damages sustained by Plaintiff.

55. The damages caused by the hail storm and/or windstorm have not been properly addressed or repaired in the months since the storm, causing further damages to the Property, and causing undue hardship and burden to Plaintiff. These damages are a direct result of Defendants' mishandling of Plaintiff's claim in violation of the laws set forth above.

56. For breach of contract, Plaintiff are entitled to regain the benefit of their bargain, which is the amount of his claim, together with attorney's fees.

57. For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefits that should have been paid pursuant to the policy, court costs, and attorney's fees. For knowing conduct of the acts described above, Plaintiff ask for three times their actual damages. TEX. INS. CODE § 541.152.

58. For noncompliance with Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of the claim, as well as 18% (eighteen percent) interest per annum on the

amount of such claim as damages, together with attorney's fees. TEX. INS. CODE § 542.060.

59. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, exemplary damages and damages for emotional stress.

60. For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the attorney whose name is subscribed to this pleading. Therefore, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorney in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas

JURY DEMAND

61. Plaintiff hereby demands a trial by jury and tender the appropriate fee.

DISCOVERY REQUESTS

62. Pursuant to Texas Rules of Civil Procedure 194, Plaintiff requests that each Defendant disclose, within 30 days of service of this request, the information or materials described in Texas Rule of Civil Procedure 194.2(a)-(l).

63. Defendants are requested to respond to the attached interrogatories and requests for production within fifty (50) days.

PRAYER

64. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this court site Defendants to appear and answer herein and that Plaintiff has judgment taken against Defendants and recovers from Defendants all damages allowed by law, and that Plaintiff be awarded attorneys' fees for trial

and any appeal of this case, for pre-judgment and post judgment interest as allowed by law, costs of court, and such other and further relief, both general and special, at law or in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

THE POTTS LAW FIRM, LLP

By: /s/ Matthew J. Worrall

Matthew J. Worrall

SBN: 24070883

William H. Barfield

SBN: 24031725

Andrew A. Woellner

SBN: 24060850

100 Waugh Drive, Suite 350

Houston, Texas 77007

Telephone (713) 963-8881

Facsimile (713) 574-2938

Emails: mworral@potts-law.com

wbarfield@potts-law.com

awoellner@potts-law.com

ATTORNEYS FOR PLAINTIFF

4/22/2016 4:36:22 PM

Chris Daniel - District Clerk

Harris County

Envelope No: 10268061

By: LUGO, BONNIE

Filed 4/22/2016 4:36:22 PM

CIVIL PROCESS REQUEST FORM
2016-26094 / Court: 190FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING TO BE SERVED
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: _____

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Original Petition _____

FILE DATE OF MOTION: April 22, 2016 _____
Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Allstate Texas Lloyds _____

ADDRESS: 1999 Bryan Street, Suite 900, Dallas, Texas 75201 _____

AGENT, (if applicable): CT Corporation System _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- ☐ MAIL ☒ CERTIFIED MAIL
- ☐ PUBLICATION:
- Type of Publication: ☐ COURTHOUSE DOOR, or
- ☐ NEWSPAPER OF YOUR CHOICE: _____
- ☐ OTHER, explain _____

ATTENTION: Effective June 1, 2010

For all Services Provided by the DISTRICT CLERKS OFFICE requiring our office to MAIL something back to the Requesting Party, we require that the Requesting Party provide a Self-Addressed Stamped Envelope with sufficient postage for mail back. Thanks you,

2. NAME: Allen Michael Colbert _____

ADDRESS: 5415 Margaret Lane, Beaumont, Texas 77708 _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP ☐ CONSTABLE
- ☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- ☐ MAIL ☒ CERTIFIED MAIL
- ☐ PUBLICATION:
- Type of Publication: ☐ COURTHOUSE DOOR, or
- ☐ NEWSPAPER OF YOUR CHOICE: _____
- ☐ OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Matthew J. Worrall _____ TEXAS BAR NO./ID NO. 24070883 _____

MAILING ADDRESS: 100 Waugh Drive, Suite 350, Houston, Texas 77007 _____

PHONE NUMBER: 713 _____ 963-8881 _____ FAX NUMBER: 713 _____ 574-2938 _____
area code phone number area code fax number

EMAIL ADDRESS: _____

70156640600455940329

NC

CONFIRMED FILE DATE: 4/26/2016

CAUSE NO. 201626094

RECEIPT NO.

75.00 CTM

TR # 73240037

PLAINTIFF: LISTI, SAMUEL
vs.
DEFENDANT: ALLSTATE TEXAS LLOYDS

In The 190th
Judicial District Court
of Harris County, Texas
190TH DISTRICT COURT
Houston, TX

THE STATE OF TEXAS
County of Harris

CITATION (CERTIFIED)

FILED
Chris Daniel
District Clerk

TO: ALLSTATE TEXAS LLOYDS MAY BE SERVED BY SERVING ITS REGISTERED AGENT
C T CORPORATION SYSTEM

APR 26 2016

Time:

Harris County, Texas

By

Deputy

1999 BRYAN STREET SUITE 900 DALLAS TX 75201 - 3136

Attached is a copy of PLAINTIFFS ORIGINAL PETITION FIRST SET OF INTERROGATORIES FIRST SET
OF REQUESTS FOR PRODUCTION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 22nd day of April, 2016, in the above cited cause number
and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a
written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday
next following the expiration of 20 days after you were served this citation and petition,
a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 26th day of April, 2016, under my hand and
seal of said Court.

Issued at request of:
WORRALL, MATTHEW JAMES
100 WAUGH, SUITE 350
HOUSTON, TX 77007
Tel: (713) 963-2881
Bar No.: 24070883



CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: CHAMBERS, WANDA RENEE ULW//10365666

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by
mailing to Defendant certified mail, return receipt requested, restricted delivery, a true
copy of this citation together with an attached copy of
PLAINTIFFS ORIGINAL PETITION FIRST SET OF INTERROGATORIES FIRST SET
to the following addressee at address:

(a) ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106
(2) TRCF, upon the Defendant as evidenced by the
return receipt incorporated herein and attached
hereto at

on _____ day of _____,
by U.S. Postal delivery to _____

This citation was not executed for the following
reason: _____

CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM
This instrument is of peer quality
at the time of imaging

73240037

7615 6640 6004 5594 0312

CAUSE NO. 201616094

RECEIPT NO.

75.00

CTM

TR # 73240035

CONFIRMED FILE DATE: 4/26/2016

PLAINTIFF: LISTI, SAMUEL
vs.
DEFENDANT: ALLESTATE TEXAS LLOYDS

In The 190th
Judicial District Court
of Harris County, Texas
190TH DISTRICT COURT
Houston, TX

THE STATE OF TEXAS
County of Harris

CITATION (CERTIFIED)

FILED
Chris Daniel
District Clerk

APR 26 2016

Time: 3:30p
Harris County, TexasBy W Deputy

TO: COLBERT, ALLEN MICHAEL

5415 MARGARET LANE BEAUMONT TX 77709

Attached is a copy of PLAINTIFFS ORIGINAL PETITION FIRST SET OF INTERROGATORIES FIRST SET OF REQUESTS FOR PRODUCTION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 22nd day of April, 2016, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SURE, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 26th day of April, 2016, under my hand and seal of said Court.



Chris Daniel

CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Issued at request of:
WORRALL, MATTHEW JAMES
100 WAUGH, SUITE 350
HOUSTON, TX 77007
Tel: (713) 963-8861
Bar No.: 24070983

Generated By: CHAMBERS, WANDA RENEE ULW//10365666

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFFS ORIGINAL PETITION FIRST SET OF INTERROGATORIES FIRST SET to the following addressee at address:

(a) ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106
(2) FRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

CHRIS DANIEL, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

73240035

CONFIRMED FILE DATE: 4/27/2016

7015 0640 0004 5594 0312

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

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Extra Services & Fees (check box, add fees and postage)

☐ Return Receipt (hardcopy) \$ 2.70

☐ Return Receipt (electronic) \$ 0.00

☐ Certified Mail Restricted Delivery \$ 0.00

☐ Adult Signature Required \$ 0.00

☐ Adult Signature Restricted Delivery \$ 0.00

Postage \$ 2.20

Tot \$ 8.20

COLBERT, ALLEN MICHAEL
 5415 MARGARET LANE
 BEAUMONT, TEXAS 77708

APR 27 2016 198
 MR
 Chris Daniel
 District Clerk

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7015 0640 0004 5594 0329

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OFFICIAL RECEIPT

Certified Mail Fee \$ 3.30

Extra Services & Fees (check box, add fees and postage)

☐ Return Receipt (hardcopy) \$ 2.70

☐ Return Receipt (electronic) \$ 0.00

☐ Certified Mail Restricted Delivery \$ 0.00

☐ Adult Signature Required \$ 0.00

☐ Adult Signature Restricted Delivery \$ 0.00

Postage \$ 2.20

Tot \$ 8.20

ALLSTATE TEXAS LLOYDS BY SERVING ITS
 REGISTERED AGENT C T CORPORATION SYSTEM
 1999 BRYAN STREET STE 900
 DALLAS, TEXAS 75201-3136


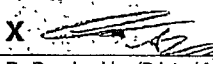
APR 27 2016 198
 MR
 Chris Daniel
 District Clerk

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2016-26094

RECORDER'S MEMORANDUM
 This instrument is of poor quality
 at the time of imaging

CONFIRMED FILE DATE: 5/6/2016

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. ALLSTATE TEXAS LLOYDS BY SERVING ITS REGISTERED AGENT C.T. CORPORATION SYSTEM 1999 BRYAN STREET STE 900 DALLAS, TEXAS 75201-3136</p> <p>190-16-26094</p>  <p>9590 9402 1380 5285 6418 30</p> <p>2. Article Number (Transfer from service label) 7015 0640 0004 5594 0329</p>	<p>A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery MAY 02 2016 Chris Wells</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Mail <input type="checkbox"/> Mail Restricted Delivery (500)</p> <p style="text-align: right;"><input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

FILEDChris Daniel
District Clerk


MAY - 6 2016

Time: _____

Harris County, Texas

By _____

Deputy

USPS TRACKING#	
 <p>9590 9402 1380 5285 6418 30</p>	<p>First-Class Mail Postage & Fees Paid USPS Permit No. G-10</p>
<p>United States Postal Service * Sender: Please print your name, address, and ZIP+4® in this box*</p> <p>RECEIVED CHRIS DANIEL DISTRICT CLERK HARRIS COUNTY, TEXAS</p> <p>2016 MAY -6 AM 9:02</p> <p>CHRIS DANIEL, DISTRICT CLERK HARRIS COUNTY, TEXAS CIVIL INTAKE P.O. BOX 4651 HOUSTON, TEXAS 77210</p>	

BY _____
MAIL ROOM

2016-26094

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

CAUSE NO. 2016-26094

SAMUEL LISTI	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
ALLSTATE TEXAS LLOYD'S AND	§	
ALLEN MICHAEL COLBERT	§	
	§	
Defendants.	§	190th JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

Defendant ALLSTATE TEXAS LLOYD'S files this Original Answer to Plaintiff's Original Petition and would respectfully show the Court the following:

I.
ORIGINAL ANSWER

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every, all and singular, allegation contained within Plaintiff's Original Petition, and demands strict proof then by a preponderance of the credible evidence in accordance with the Constitution and laws of the State of Texas.

II.
PRAYER

Defendant Allstate Texas Lloyd's prays that upon final trial and hearing hereof, Plaintiff recovers nothing from Defendant, but Defendant goes from here without delay and recovers costs of court and other such further relief, both general and special, to which Defendant may be justly entitled.

Respectfully submitted,

/s/ John B. Reyna

John B. Reyna

State Bar No. 24098318

Roger D. Higgins

State Bar No. 09601500

THOMPSON, COE, COUSINS & IRONS, L.L.P.

Plaza of the Americas

700 N. Pearl Street, Twenty-Fifth Floor

Dallas, Texas 75201-2832

Telephone: (214) 871-8200

Telecopy: (214) 871-8209

jreyna@thompsoncoe.com

rhiggins@thompsoncoe.com

**ATTORNEYS FOR DEFENDANT ALLSTATE
TEXAS LLOYD'S**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by electronic file notification and/or facsimile to the following counsel on May 20, 2016:

Matthew J. Worrall

William H. Barfield

Andrew A. Woellner

100 Waugh Drive, Suite 350

Houston, Texas 77007

Telephone: (713) 963-8881

Facsimile: (713) 574-2938

Email: [mworrall@potts-law.com](mailto:mworral@potts-law.com)

Email: wbarfield@potts-law.com

Email: awoellner@potts-law.com

ATTORNEYS FOR PLAINTIFF

/s/ John B. Reyna

John B. Reyna